

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

KARL FUGATE,

Plaintiff,

v.

RON ERDOS, et al.,

Defendants.

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Case No. 1:19-CV-00030

JUDGE MATTHEW W. McFARLAND

Magistrate Judge Stephanie K. Bowman

**DEFENDANTS' MOTION FOR AN EXTENSION OF TIME TO FILE RESPONSE TO
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (DOC. 54)**

Defendants respectfully request an extension of time until July 13, 2020, to file their response to Plaintiff's Motion for Summary Judgment (Doc. 54) in conjunction with Defendants' Motion for Summary Judgment. The attached Memorandum supports Defendants' Motion.

Respectfully submitted,
DAVE YOST
Ohio Attorney General

s/Thomas E. Madden
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Trial Counsel for Defendants

MEMORANDUM

Plaintiff is an inmate housed at the Ohio State Penitentiary (“OSP”) proceeding pro se against the following Defendants: Ron Erdos, Lieutenant Eshem, Sergeant Felts, Officer Fri and Officer McCoy. (See generally Doc. 3). On June 4, 2020, Plaintiff filed his motion for summary judgment. (Doc. 54). On June 3, 2020, Undersigned was assigned to this case, substituting Zachary Holscher, as lead counsel. (Doc. 53).

Fed. R. Civ. P. 6(b)(1)(A) provides that the Court may grant a time extension for good cause shown if the request is made within the time remaining for the act to be performed. Here, Defendants assert good cause exists. Newly assigned Counsel for Defendants respectfully requests an extension of time, until July 13, 2020, to file their response to Plaintiff’s pending motion for summary judgment (Doc. 54) and to file their cross motion for summary judgment. Undersigned has recently been assigned to this case and there has been insufficient time to familiarize himself with the claims, evidence and procedural history of the case. In addition to the new assignment, Undersigned has a fast approaching deadline to a Motion for Preliminary Injunction in *Smith v. DeWine*, that he is currently working on which is taking an extensive amount of time and research. Undersigned also has a Motion for Summary Judgment due in *Creech v. ODRC* due on July 1, 2020.

Undersigned intends to respond to the pending motion for summary judgment filed by Plaintiff and file a motion for summary judgment on behalf of Defendants. If granted, the new date for such response and Defendants’ motion for summary judgment would be Monday, July 13, 2020.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Defendants' Motion for an Extension of Time to File Response to Plaintiff's Motion for Summary Judgment (Doc. 54)* was filed via electronic transmission on June 23, 2020, and was sent by regular, first-class mail to Karl Fugate, #A528-949, Ohio State Penitentiary, 878 Coitsville-Hubbard Road, Youngstown, OH 44505 on June 24, 2020.

s/Thomas E. Madden
THOMAS E. MADDEN (0077069)
Senior Assistant Attorney General